IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 15092 of 2004

Between:

Smt. G.Sujatha W/o. C.Subba Rao ,

Fair Price Shop Dealer, Yanamadala Village,
Yaddanapudi Mandal, Prakasam District.

..... PETITIONER

AND

1 The Joint Collector, Prakasam District, Ongole.
2 The Revenue Divisonal Officer, Ongole, Prakasam District.
3 The Mandal Revenue Officer, Yaddanapudi (M), Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction declaring the order of the Revenue Divisional Officer, Ongole in his proceedings in Rc.541/2004 dated 3.6.2004 suspending the Fair Price Shop dealership authorisation of the petitioner in respect of the Yanamadala Village, Yaddanapudi Mandal, Prakasam District and consequently the order of the Joint Collector, Prakasam District, Ongole in Rc. CS2/2053/2004 dated 11.7.2004 rejecting the stay petition, as illegal, void and arbitrary and without jurisdiction and further direct the respondents in the nature of writ of Mandamus to continue the petitioner to function as the Fair Price Shop dealer of Yanamadala Village, Yaddanpudi Mandal, Prakasam District.

Counsel for the Petitioner: MR.I.GOPAL REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORDER:

The petitioner is an authorized dealer in respect of a fair price shop of Yanamadala village, Yeddanapudi Mandal, Prakasham District. It appears that on 17-05-2004, she made an application before the 2nd respondent-Revenue Divisional Officer, Ongole, Prakasham District, requesting to grant leave for a period of three months on the ground of ill-health. In pursuance thereof, the 2nd respondent passed an order dated 03-06-2004, suspending the authorization of the petitioner observing that there is no provision for sanction of leave, in the rules relating to PDS Control Order, 2001. Against the said order dated 03-06-2004, the petitioner preferred an appeal before the 1st respondent-Joint Collector, Prakasham District, Ongole along with an application for stay. The 1st respondent, having entertained the appeal, rejected the application for stay by an order dated 11-07-2004. Aggrieved by the said action, the writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing on behalf of the respondents.

As can be seen from the order of the Joint Collector dated 11-07-2004, it is clear that the Joint Collector without referring to anyone of the contentions raised by the petitioner in her appeal and without going into the question whether the suspension is warranted in the facts and circumstances of the case, mechanically dismissed the application for stay. As a matter of fact, the order dated 03-06-2004 does not mention that the authorization of the petitioner was suspended pending any enquiry. It appears to be a final order, in the nature of substantive punishment. If that be so, the Joint Collector who is the competent authority to hear the statutory appeal, ought not to have rejected the stay without assigning any reasons. In the circumstances, the order dated 11-07-2004 cannot be sustained and the same is accordingly set aside.

The learned counsel for the petitioner states that the petitioner has now recovered and a Fitness Certificate, dated 17-08-2004, issued by the Medical Officer, Primary Health Centre, Martur, Prakasham District has also been produced to that effect.

In the circumstances, the writ petition is disposed of with a direction to the 1st respondent to consider the application for stay afresh, keeping in view the Fitness Certificate dated 17-08-2004 submitted by the petitioner and pass appropriate orders in accordance with law as expeditiously as possible preferably within a period of one week from the date of receipt of this order. No costs.

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25-08-2004

Note: Issue C.C in two days.

B/o.

Vs

To

1 The Joint Collector, Prakasam District, Ongole.
2 The Revenue Divisonal Officer, Ongole, Prakasam District.
3 The Mandal Revenue Officer, Yaddanapudi (M), Prakasam District.

4 Two CCs to the G.P for Civil Supplies, High Court Buildings, Hyderabad(O.U.T).

5 Two CD copies.

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 15092 of 2004

Dated: 25-08-2004